

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

JAMES L. WINN,

Plaintiff,

v.

SHERIFF DEPUTY ZACHARY CUONZO-SIMMONS; SHERIFF DEPUTY BRANDON KENNEDY; SHERIFF CORPORAL RUSSELL SCHAFER; SHERIFF CORPORAL SANDERSON; SHERIFF DEPUTY LEWIS; SHERIFF DEPUTY WADE; and SHERIFF DEPUTY WILLIAMS,

Defendants.

CASE NO. 1:22-CV-127

DEFENDANTS' STATEMENT OF MATERIAL FACTS

COME NOW Defendants and file this Statement of Undisputed Material Facts, showing the Court the following:

1. On December 30, 2020, Deputy Zachary Cuonzo-Simmons observed a car driven by Plaintiff traveling at 97 miles per hour in a 65 mile zone of I-20 eastbound in Richmond County. Exhibit A.
2. Deputy Cuonzo-Simmons activated his lights and siren and attempted to initiate a traffic stop of Plaintiff's vehicle. Exhibit A; Doc 37-1 ¶ 9.
3. Plaintiff refused to pull over as he was a fugitive and had outstanding warrants in three states. Doc. 37-1 ¶¶ 10-15.
4. Plaintiff instead increased his speed to over 100 miles per hour. Exhibit A; Doc. 37-1 ¶ 16.

5. When Plaintiff crossed into South Carolina, Deputy Cuonzo-Simmons terminated the pursuit and turned around onto I-20 westbound. Exhibit A.
6. Plaintiff also turned around, and he eventually passed by Deputy Cuonzo-Simmons, who was parked on the shoulder of I-20. Exhibit A; Doc. 37-1 ¶ 19.
7. Deputy Cuonzo-Simmons again attempted to pull Plaintiff over, but Plaintiff sped up and exited at Riverwatch Parkway and got back on I-20 East. Exhibit A; Doc. 37-1 ¶ 22-24.
8. Deputy Cuonzo-Simmons performed two precision immobilization techniques (P.I.T.) on Plaintiff's vehicle to force Plaintiff to stop. Exhibit A; Doc. 37-1 ¶ 26
9. However, Plaintiff regained control of his vehicle and continued fleeing from Deputy Cuonzo-Simmons at a high rate of speed. Exhibit A; Doc. 37-1 ¶ 29.
10. Other deputies set up stop sticks on I-520, which Plaintiff ran over and which caused his tire to deflate such that his vehicle came to a stop. Exhibit A; Doc. 37-1 ¶ 33-35.
11. Other officers were dispatched to the scene including Defendants Brandon Kennedy, Russell Schaffer, Matthew Sanderson, Zachary Lewis, John Wade, and Jayson Williams. *See* Schaffer video; Beach video.
12. Once Plaintiff's vehicle stopped, deputies approached and told Plaintiff to exit and place his hand up. Exhibit A; Schaffer video 4:20-4:30; Beach video 7:25-7:35.
13. Plaintiff refused to exit the vehicle, and he instead rolled up his windows and looked for a cigarette to smoke. Exhibit A; Doc. 37-1 ¶ 41-42; Schaffer video 4:20-4:30.
14. Thus, deputies had to pull Plaintiff out of the vehicle and restrain him on the ground. Exhibit A; Doc. 37-1 ¶ 52; Beach video 7:28-7:35.

15. Plaintiff refused to place his hands behind his back, so Deputy Williams tazed Plaintiff. Exhibit A; Beach video 7:35-8:10.
16. After struggling with Plaintiff for approximately one minute, deputies handcuffed Plaintiff and removed all force. Schaffer video 4:20-5:50; Beach video 7:28 - 8:25.
17. Corporal Schaffer immediately called for EMS to check on Plaintiff, and deputies eventually transported him to AUMC for any necessary medical evaluation. Exhibit A; Schaffer video 7:06-7:12.
18. Plaintiff was charged with various traffic violations in addition to 2 counts of felony fleeing. Exhibit C.
19. Plaintiff has failed to establish a § 1983 claim against Defendants.

Wherefore, Defendants pray that this Court grant Defendants' Motion for Summary Judgment.

Respectfully submitted his 20th day of July 2023.

/s/Tameka Haynes
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